



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 7439-99

1 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 3 April 1978 at the age of 18. Your record reflects that on 29 September and 6 October 1978 you received nonjudicial punishment (NJP) for possession of marijuana, breaking restriction, two periods of absence from your appointed place of duty, and possession of another person's identification card.

Your record further reflects that on 8 January 1979 you received NJP for three periods of unauthorized absence (UA) totalling 10 days, failure to go to your appointed place of duty, two incidents of failure to obey a lawful order, and six incidents of violation of a lawful general regulation. The punishment imposed was restriction for 60 days and \$426 forfeiture of pay. On 12 January 1979 you were convicted by summary court-martial (SCM) of a nine incidents of failure to go to your appointed place of duty and failure to obey a lawful order and sentenced to confinement at hard labor for 15 days. On 6 and 16 March 1979 you received NJP for failure to go to your appointed place of duty, disrespect, and possession of marijuana.

Subsequently, you were processed for an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. The discharge authority directed your commanding officer to issue you an other than honorable discharge and on 23 April 1979 you were so discharged.

The Board, in its review of your entire record and application considered all mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct which resulted in five NJPs and a court-martial conviction. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director